

**Before The
Federal Communications Commission
Washington, DC**

In the Matter of:

Retention by Broadcasters of
Program Recordings

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MB Docket No. 04-232

July 9th, 2004

Introduction

In the above *Notice of Proposed Rulemaking* the Commission is proposing that broadcasters retain recordings of programming in order to increase effectiveness for enforcing restrictions on obscene, indecent, and profane broadcast programming.

Kol Ami Havurah, licensee of WVJW-LP Benwood, WV (WVJW-LP) opposes such recordings of programming.

Discussion

A major majority of stations have existed for years, even decades, without complaint. Only a tiny fraction of stations have ever had complaints of indecency, obscenity, and profanity. The majority of those stations which have had complaints have been stations owned by large corporations. The Commission is proposing a “punishment” of all broadcasters because of what a tiny few have done and is assuming all broadcasters are guilty of something and must prove their innocence by recording broadcasts.

Although the Commission suggests that stations recording broadcasts will make the complaint process ‘easier’ for the viewer/listener. WVJW-LP asks if the Commission lacked video footage for the Janet Jackson Super Bowl Stunt and Bono’s utterance at the Golden Globe Awards? Did the Commission lack audio footage of what happened in St.Patrick’s Cathedral? It is rather obvious that if something is a bonified complaint somebody somewhere would have recorded it. Bogus complaints or complaints with no merit are the ones we are sure never get evidence submitted.

In this time of wanting to increase localism such a proposal would stifle it. LPFMs, Class-Ds, and small NCE Class-A FM stations are the very stations that promote localism. However, the cost and people power needed to record, log, and store broadcasts would force these stations to either cease local production as monies are placed in obtaining recording equipment, recording broadcasts, logging, and storing broadcasts or the stations would be forced off the air because the station is unable to comply with the proposed rules.

Our own WVJW-LP would be faced with the choice of expanding local programs or hiring someone to record, log and store broadcasts. WVJW-LP already is struggling as we need one person to log EAS, enter the station log, and update the stations records. If what the Commission proposes were to happen WVJW-LP will be forced off the air as we simply can't afford what is being proposed and the residents of the Ohio Valley will no longer have a locally owned and operated public radio station.

Questions by the Commission

The Commission asks several questions of broadcasters in the *NPRM*. We can only answer a few of those questions and as they pertain to our station, but we hope our answers will help the Commission in it's decisions.

"What are broadcasters' current practices in terms of recording programming and retaining copies of the recordings?"

WVJW-LP is an affiliate of the Pacifica Radio Network. The programming we obtain through our affiliation is downloaded via the internet. Daily programs are downloaded, aired at its scheduled time, and then deleted the next day. Weekly programs are downloaded, aired at its scheduled time, and then deleted the next week. Pacifica Radio Network maintains an archive of all it's network programming. Recoding and saving these programs would overburden our hard drive space and would be redundant as the 'network' retains a copy.

WVJW-LP's musical programming is automated. All 1,250 pieces of music in our play list, all legal IDs, Public Service Announcements, promos, sweepers, voice overs are all stored on our computer. Recoding and saving automated programs would overburden our hard drive space and would be redundant as a copy of everything contained in those programs is already saved.

WVJW-LP's live programming. We currently produce 2 live programs and had planned to expand, however based on the out come of this proposal we may not produce live programming at all. One program is a weekly news program. This program isn't recorded. We also produce a local program with a live DJ announcing and using music in our play list. This program is recorded for future use as reruns.

"Are there any other means to reduce the financial costs of complying with the proposed requirements?"

Yes, in our case we can simply submit our entire play list and any proposed music to be added to the play list to the Commission and the Commission reply with a list of songs they deem as indecent. We can submit an audio CD to the Commission of all current and any proposed Legal IDs, Public Service Announcements, promos, sweepers, and voice overs and the Commission reply with a list of those items they deem as indecent.

In the case of network programming we can direct the Commission to those programs stored in the network's archives. Recording of DJ assisted programs need not be recorded if it is simply a DJ announcing the music that the Commission already has on record as music that the station airs and is approved as decent. In the case of news programs we feel that type of programming should not be subject to recording.

We would like to note that our station lacks sufficient hard drive space and computer memory to record and store everything aired on our station and store it for 60-90 days. This would be 60-90 16 hour files, even at a low bit rate it would take hours just to save such files and require at least 25Gb for 60 days storage and 39Gb for 90days storage. With a 30 Gb hard drive we wouldn't have any space for our programming! To construct such as storage device just for recording and storing 16 hours of broadcasts for 60-90 days would actually cost more than it cost to construct our entire LPFM station.

Conclusion

We feel the *Notice of Proposed Rulemaking* incorrectly "punishes" stations that have long upheld the Commission's rules, recording is unnecessary, and the proposal may in fact damage those stations promoting localism.

Respectfully Submitted,

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